

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION BY ESG) CAUSE NO. 43569
BIOFUELS (BLACKFOOT), LLC FOR)
CERTAIN DETERMINATIONS BY THE) PREHEARING
COMMISSION WITH RESPECT TO ITS) CONFERENCE ORDER
JURISDICTION OVER PETITIONER'S)
ACTIVITIES AS A GENERATOR OF POWER) APPROVED: OCT 15 2008

BY THE COMMISSION:

Jeffrey L. Golc, Commissioner

Aaron A. Schmoll, Administrative Law Judge

On September 4, 2008, Petitioner ESG Biofuels (Blackfoot), LLC ("Petitioner") filed its petition with the Indiana Utility Regulatory Commission ("Commission") in this matter.

Pursuant to notice and as provided for in 170 IAC 1-1.1-15, a Prehearing Conference in this Cause was held in Room 224 of the National City Center, 101 West Washington Street, Indianapolis, Indiana at 10:30 a.m., on September 30, 2008. Proofs of publication of the notice of the Prehearing Conference have been incorporated into the record and placed in the official files of the Commission. The Petitioner and the Indiana Office of Utility Consumer Counselor ("Public" or "OUCC") appeared and participated at the Prehearing Conference. No members of the general public appeared or participated at the hearing.

Prior to the opening of the record and with the consent of all parties in attendance, an informal discussion was held regarding procedural and scheduling matters in this Cause. The agreement of the parties was then read into the record.

Based upon the agreement of the parties, the Commission now enters the following Findings and Order, which should become a part of the record in this proceeding:

1. **Petitioner's Prefiling Date.** The Petitioner prefiled with the Commission its prepared testimony and exhibits constituting its case-in-chief on September 15, 2008. Copies of same should be served upon all parties of record.
2. **Public's and Intervenors' Prefiling Date.** Public and all Intervenors should prefile with the Commission the prepared testimony and exhibits constituting their respective cases-in-chief on or before October 30, 2008. Copies of same should be served upon all parties of record.
3. **Petitioner's Rebuttal Prefiling.** The Petitioner should prefile with the Commission its prepared rebuttal testimony on or before November 5, 2008. Copies of same should be served upon all parties of record.

4. **Evidentiary Hearing on the Parties' Cases-In-Chief.** In the event this Cause is not settled, the cases-in-chief of the Petitioner, Public, and any Intervenors should be presented in an Evidentiary Hearing to commence at 9:30 a.m., on November 14, 2008 in Room 224 of the National City Center, 101 West Washington Street, Indianapolis, Indiana. At such time, the direct evidence of the respective parties should be presented and their respective witnesses examined. Thereafter, Petitioner should present its prefiled rebuttal evidence as well as any additional evidence rebutting evidence adduced on cross-examination of Public's or Intervenors' witnesses. If the parties reach settlement, the agreement should be submitted to the Commission five (5) business days prior to the Evidentiary Hearing.

5. **Discovery.** Discovery is available for all parties and should be conducted on an informal basis. Any response or objection to a discovery request should be made within five (5) business days of the receipt of such request. After Petitioner's Rebuttal prefilings, response time to discovery shall be five (5) calendar days.

6. **Prefiling of Workpapers.** When prefilings technical evidence with the Commission, each party should file copies of the work papers used to produce that evidence within two (2) business days after the prefilings of such technical evidence. Copies of same should also be served on the other parties to this Cause. When submitting workpapers to the Commission, two (2) copies of each document should be filed with the Secretary of the Commission.

7. **Number of Copies/Corrections.** With the exception of work papers, the parties should file with the Commission an original and five (5) copies of all prefiled testimony and exhibits. Any corrections to prefiled testimony should be made in writing as soon as possible after discovery of the need to make such corrections. Although the Commission's rules require that original copies be one-sided, it is the Commission's preference that duplicate copies use both sides of the paper.

8. **Intervenors.** Any party permitted to become an Intervenor in this Cause should be bound by the record as it stands at the time its Petition to Intervene is granted, pursuant to 170 IAC 1-1.1-11.

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:


1. The determinations of the Prehearing Conference set forth in this Order are made a part of the record in this Cause and shall be binding on all present and future parties of record during the proceedings of this Cause.

2. This Order shall be effective on and after the date of its approval.

GOLC, LANDIS, SERVER, AND ZIEGNER CONCUR; HARDY ABSENT:

APPROVED: OCT 15 2008

**I hereby certify that the above is a true
and correct copy of the Order as approved.**



**Brenda A. Howe
Secretary to the Commission**